

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

BALLY TECHNOLOGIES, INC.,

Plaintiff,

v.

BUSINESS INTELLIGENCE SYSTEMS  
SOLUTIONS, INC.,

Defendant.

2:10-CV-00440-PMP-GWF

ORDER

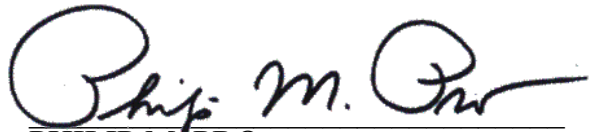
Presently before the Court is Plaintiff Bally Technologies, Inc.’s (“Bally”) Motion for Reconsideration (Doc. #179), filed on September 13, 2012. Defendant Business Intelligence Systems Solutions, Inc. (“BIS2”) filed an Opposition (Doc. #184) on October 1, 2012. Plaintiff filed a Reply (Doc. #188) on October 11, 2012.

The Court “possesses the inherent procedural power to reconsider, rescind, or modify an interlocutory order for cause seen by it to be sufficient” so long as the Court has jurisdiction. City of L.A., Harbor Div. v. Santa Monica Baykeeper, 254 F.3d 882, 885 (9th Cir. 2001) (emphasis and quotation omitted). “Reconsideration is appropriate if the district court (1) is presented with newly discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening change in controlling law.” Sch. Dist. No. 1J, Multnomah Cnty., Or. v. ACandS, Inc., 5 F.3d 1255, 1263 (9th Cir. 1993). “A motion for reconsideration is not an avenue to re-litigate the same issues and arguments upon which the court already has ruled.” In re AgriBioTech, Inc., 319 B.R. 207, 209 (D. Nev. 2004).

1 The Court will deny Bally's Motion. Bally has not identified any newly  
 2 discovered evidence or an intervening change in the law to support reconsideration. Bally  
 3 also has not demonstrated the Court's prior ruling was clearly erroneous. In the original  
 4 summary judgment briefing, Bally failed to cite any record support for its statement that  
 5 when BIS2's software inverts a standard icon, any contour lines surrounding the data point  
 6 represent data values which are "even lower" than the retrieved data point's value. (Bally's  
 7 Opp'n to BIS2's Mot. Summ. J. of No Infringement (Doc. #151) at 16.) Bally thus failed to  
 8 meet its burden of demonstrating a genuine issue of fact remained for trial, and  
 9 consequently the Court's Order (Doc. #171) granting summary judgment in BIS2's favor  
 10 was not clearly erroneous. On reconsideration, Bally cites to no record evidence for its  
 11 statements that the contour lines<sup>1</sup> around the retrieved data point "must" be less than the  
 12 retrieved data point displayed by BIS2's software, that BIS2's software assigns inconsistent  
 13 colors to retrieved data values, or that the contour lines surrounding a data point generated  
 14 by BIS2's software represent data values less than the actual value of the retrieved data  
 15 point regardless of how the contour lines graphically are displayed. (Mot. for Recons.  
 16 (Doc. #179) at 1, 3, 5.) Consequently, the Court will deny reconsideration.

17 IT IS THEREFORE ORDERED that Plaintiff Bally Technologies, Inc.'s Motion  
 18 for Reconsideration (Doc. #179) is hereby DENIED.

19  
 20 DATED: October 16, 2012

21   
 22 PHILIP M. PRO  
 23 United States District Judge  
 24

25 <sup>1</sup> BIS2 disputes that its software generates or displays contour lines. In its prior Order (Doc.  
 26 #171), the Court assumed without deciding that BIS2's software generates and displays contour lines,  
 and the Court does so again on reconsideration.